

NORTH CAROLINA REAL ESTATE COMMISSION

Summary of Proposed Rule Changes Concerning General Brokerage and Licensing

Proposed Effective Date: July 1, 2014

Real Estate Brokers - General Brokerage:

21 NCAC 58A .0104 – To add paragraph (d1) to the rule governing agency agreements and disclosures to prohibit a broker who is selling property in which the broker has an interest from representing a buyer of the property, and to further prohibit a broker who is listing property from purchasing the listed property unless the broker first discloses the conflict of interest to his principal and, if requested to do so by his principal prior to closing, terminates the listing agreement. The change is needed to eliminate the inherent conflict of interest presented by a broker representing the very party against whom the broker, as an interested party, is negotiating.

21 NCAC 58A .0110 – To amend the rule governing brokers-in-charge to delete the requirement that brokers-in-charge complete the four-hour Broker-in-Charge Annual Review Course and the mandatory four-hour Real Estate Update Course, and to instead require them to complete a four hour mandatory continuing education course known as the “Broker-in-Charge Update Course” and a four-hour continuing education (“CE”) elective course in order to retain broker-in-charge eligibility. The rule change will combine the old Broker-in-Charge Annual Review Course and the Update Course into a single 4-hour course, allowing brokers-in-charge to take an elective CE course to fulfill the second four hour component of the mandatory 8-hour CE requirement.

21 NCAC 58A .0112 – To amend the rule governing offers and sales contracts to incorporate minor technical changes. Paragraph (a)(7), addressing language required in form contracts regarding the handling of disputed earnest money deposits, should refer to Rule 21 NCAC 58A .0116 rather than former Rule 21 NCAC 58A .0107.

21 NCAC 58A .0114 – To amend and clarify Question #24 on the Residential Property and Owners’ Association Disclosure Statement to inquire whether, based upon the seller’s knowledge, the property is in violation of any local zoning ordinances, restrictive covenants, building code requirements, or other land-use restrictions, and eliminate the reference to notice from a government agency about those restrictions.

21 NCAC 58A .0117 – To amend Paragraph (f) of the rule governing accounting for trust money to incorporate minor technical changes. The reference to “the records required by Paragraph (d) of this Rule” should instead refer to Paragraph (c), which is the paragraph describing the records brokers are required to maintain.

(over)

Real Estate Brokers - General Brokerage:

21 NCAC 58A .0118 – To amend the rule governing the handling of trust money belonging to owners' associations to incorporate minor technical changes for the purpose of updating references to other rules to agree with recent amendments. Paragraph (a), requiring such trust money to be handled in the manner required by "this Rule" should instead refer to Rules 21 NCAC 58A .0116 and A .0117. Paragraph (b), exempting brokers volunteering as officers of owners' associations from the requirements of Rule A .0116, should also exempt them from the requirements of Rule A. 0117.

Real Estate Brokers - Licensing:

21 NCAC 58A .0502 – To amend the rule governing the licensing of business entities to incorporate minor technical changes for the purpose of updating references to other rules to agree with recent amendments. The references in Paragraphs (a)(7) and (d)(1) to the definitions of "office" and "branch office" should refer to Rule 21 NCAC 58A. 0110(a), where the definitions are located in the current rule, instead of A .0110(b). Also, the references in Paragraphs (d)(6) and (8) to records that "have not been reconciled as required by Rule A .0107 of this Subchapter" should instead refer to Rule 21 NCAC 58A .0117.

21 NCAC 58A .0503 – To amend and modernize the rule governing license renewals to require that brokers applying for renewal do so using an electronic application on the Commission's website or by calling the Commission's office. Also, to require brokers to provide the Commission with their e-mail address if they have one, and to permit brokers to designate their e-mail address as private, thereby exempting the addresses from disclosure as a public record.

Real Estate Brokers - Limited Non-Resident Commercial License:

21 NCAC 58A .1808 – To amend the rule governing the handling of trust monies by a nonresident commercial broker to incorporate minor technical changes. The provision requiring the depositing of trust monies in a trust account "in accordance with the provisions of Rule .0107 of this Subchapter" should instead refer to Rule 21 NCAC 58A .0117.